

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Jamaal Lloyd and Anastasia Jenkins, individually and on behalf of all others similarly situated, and on behalf of the W BBQ Holdings, Inc. Employee Stock Ownership Plan,

Plaintiffs,
v.

Argent Trust Company, Herbert Wetanson, Gregor Wetanson, and Stuart Wetanson,

Defendants.

Case No. 1:22-cv-04129-DLC

**DECLARATION OF JAMAAL LLOYD IN OPPOSITION TO
DEFENDANTS' MOTION TO COMPEL ARBITRATION**

I, Jamaal Lloyd, declare and state as follows:

1. I am a participant in the W BBQ Holdings, Inc. Employee Stock Ownership Plan (“Plan”), and am one of the named Plaintiffs in the above-captioned action. I submit this Declaration in opposition to Defendants’ Motion to Compel Arbitration.¹
2. During my tenure at W BBQ (from 2013 to 2020), I never received a copy of a Plan document or Plan amendment that included an arbitration provision. Nor did I receive a summary plan description or any other document that referenced an arbitration provision relating to the Plan. Prior to the filing of this action, I was never informed of any such arbitration provision.
3. In January 2022, I sent a request to the Plan Administrator (through my counsel) requesting certain documents relating to the Plan, including the Plan document and any amendments thereto, and copies of every summary plan description issued between 2015 and the present. A copy of this request and my accompanying authorization of the request is attached hereto as Exhibit 1.

¹ I rest on the pleadings with respect to Defendants’ motion, in the alternative, to dismiss the lawsuit.

4. In response to this request, the Plan Administrator produced (on February 24, 2022) a copy of the W BBQ Holdings, Inc. Employee Stock Ownership Plan effective January 1, 2016. This Plan document did not contain an arbitration clause, and no amendment to the Plan document was produced in response to my request.

5. In response to my request for Plan-related documents, the Plan Administrator also produced a Summary Plan Description for the Plan, which stated on page 9: "If it should happen that ESOP fiduciaries misuse the ESOP's money, ... you may file suit in federal court." A copy of this Summary Plan Description is attached hereto as Exhibit 2.

6. The first time that I was informed of any purported arbitration provision is when the Defendants sought to compel arbitration after this action was filed. At no time did I ever consent to arbitrate my claims in this action on behalf of the Plan.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 10/30/2022 | 9:45 AM EDT

DocuSigned by:

Jamaal Lloyd
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